

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

LIBERTY MEDIA HOLDINGS, LLC

Plaintiff,

vs.

SERGEJ LETYAGIN, d/b/a
 SUNPORNO.COM, IDEAL CONSULT,
 LTD., "ADVERT", "CASTA",
 "TRIKSTER", "WORKER", "LIKIS",
 "TESTER" and DOES 1-50

Defendants

Case No. _____

**[PROPOSED] ORDER GRANTING
 PLAINTIFF'S *EX PARTE* MOTION FOR
 ALTERNATE SERVICE**

On May 31, 2012, the Plaintiff filed a sealed motion requesting an order permitting alternate service of the complaint, summons, and subsequent filings on Defendants Sergej Letyagin d/b/a SunPorno.com and Ideal Consult, Ltd. In a brief filed in support of the motion, the Plaintiff alleges that the Defendants are "international intellectual property scofflaws" who own and operate a website where they provide stolen pornographic films to third parties in exchange for membership fees or advertising revenues. According to the Plaintiff, the Defendants are properly subject to the jurisdiction of this court but use false addresses to evade liability for their illegal activities and to evade service of process. The Plaintiff asks the court to authorize services of the complaint, summons, and subsequent filings on Defendants Sergej Letyagin and Ideal Consult, Ltd. by email to "the email addresses Defendants are currently

utilizing for their online enterprises (webmaster@sunporno.com, clipinspector@gmail.com,
tgpalliance@gmail.com), last known email address provided by the Whois information
webmaster@nightangel.com), or by personal service upon Defendants' attorneys, Ms. Jennifer
Rinden, Esq., Ms. Connie Alt, Esq., Mr. Valentin Gurvits, Esq. and Mr. Evan Fray-Witzer, Esq.”
The Plaintiff makes this request under Federal Rules of Civil Procedure 4(f)(3) and 4(h)(2).¹

Authorizing service by email certainly is not traditional, but it does not appear that such
service has been unequivocally prohibited by any court. See *In re Int'l Telemedia Assoc., Inc.*,
245 B.R. 713, 721 (N.D. Ga. 2000) (stating no court has rejected service of process via electronic
mail on its face); *Rio Props., Inc. v. Rio Int'l Interlink*, 284 F.3d 1007, 1014 (9th Cir. 2002)
(approving service of process by email). Accordingly, the court will apply the standard rules
applicable to service of process to the Plaintiff's request.

In exercising its discretion under Rule 4(f)(3), the Court is limited to approving a method
of service that fulfills due process requirements. To satisfy the dictates of due process, the
method of service must be “reasonably calculated, under all the circumstances, to apprise
interested parties of the pendency of the action and afford them an opportunity to present their
objections.” *Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950); see also
Prewitt Enters., Inc., 353 F.3d 916, 921 (11th Cir. 2003) (“A court is required to have personal
jurisdiction under the Due Process Clauses of the Fifth and Fourteenth Amendments to the U.S.
Constitution ‘as a matter of individual liberty’ so that ‘the maintenance of the suit ... [does] not
offend ‘traditional notions of fair play and substantial justice.’”) (quoting *Ins. Corp. of Ir. v.*
Compagnie des Bauxites de Guinee, 456 U.S. 694, 702-03, 102 S. Ct. 2099, 72 L.Ed. 2d 492
(1982)); see also *Rio Props.*, 284 F.3d at 1018 (“[W]e leave it to the discretion of the district

¹ Fed. R. Civ. P. 4(f)(3) provides: “Serving an Individual in a Foreign Country. Unless federal
law provides otherwise, an individual – other than a minor, an incompetent person, or a person
whose waiver has been filed – may be served at a place not within any judicial district of the
United States ... (3) by other means not prohibited by international agreement, as the court
orders.”

Fed. R. Civ. P. 4(h)(2) provides: “Serving a Corporation, Partnership, or Association. Unless
federal law provides otherwise or the defendant's waiver has been filed, a domestic or foreign
corporation, or a partnership or other unincorporated association that is subject to a suit under a
common name, must be served ... at a place not within any judicial district of the United States,
in any manner prescribed by Rule 4(f) for serving an individual, except personal delivery under
(f)(2)(C)(I).”

1 court to balance the limitations of email service against its benefits in any particular case.”).
2 “[S]ervice of process under Rule 4(f)(3) is neither a ‘last resort’ nor ‘extraordinary relief.’ It is
3 merely one means among several of which enables service of process on an international
4 defendant.” *Id.* At the same time, the court may require the plaintiff to show that reasonable
5 efforts to serve the defendant have already been made, and that the court’s intervention will
6 avoid further burdensome or futile attempts at service. *Studio A Entm’t, Inc. v. Active Distribs.,*
7 *Inc.*, No. 1:06-cv-2496, 2008 WL 162785 at *3 (N.D. Ohio Jan. 15, 2008).

8 After taking these principles into consideration, the court authorizes service on the
9 Defendants in the following manner: The Defendants Sergej Letyagin and Ideal Consult, Ltd. are
10 to be served by either personal service upon Ms. Jennifer Rinden, Ms. Connie Alt, Mr. Valentin
11 Gurvits, and/or Mr. Evan Fray-Witzer, the attorneys who represent the Defendants in the pending
12 action in the Northern District of Iowa (11-cv-3041-MWB), or by email addressed to the email
13 addresses the Defendants utilize to conduct their online businesses (webmaster@sunporno.com,
14 clipinspector@gmail.com, tgpalliance@gmail.com, webmaster@nightangel.com).

15 **SO IT IS ORDERED.**

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17 Dated: _____

18 United States District Judge
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